

**Testimony of**  
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**House International Relations Economic Policy and Trade Subcommittee**  
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I want to thank you for the opportunity to review for this Subcommittee the benefits that the WTO and WTO dispute settlement bring to the American economy, and American workers, companies, farmers and consumers.

Today, the United States is the world's strongest economy. And the role international trade has played in our economic expansion cannot be overstated. Since 1992, exports have accounted for over one third of U.S. economic growth. While, in 1970 exports accounted for only 5 percent of our GDP, last year the share had more than doubled to 13 percent. Between 1992 and 1996, exports accounted for 1 in 6 new jobs. Just over 12 million jobs now depend on U.S. exports, and jobs supported by exports pay an average of 13 percent to 16 percent higher than the U.S. national average.

We are more prosperous today than at any time in our history, and much credit is due to increased U.S. trade, facilitated by the bilateral, regional, and multilateral trade agreements we have negotiated over the years -- the most significant of which are the World Trade Organization agreements. Increased trade is also facilitated by the Administration's trade agenda, which serves the interests of all Americans. It consists of three elements. First, we are working to expand export opportunities through multilateral, regional and bilateral negotiations and through export promotion. Second, to ensure that Americans receive the benefits we bargain for, we place great emphasis of monitoring and enforcing trade agreements. And third, we enforce our domestic trade laws vigorously to safeguard the interests of U.S. workers and businesses from unfair trade practices at home and abroad.

Our agenda builds on the strong foundation established by the WTO agreements. These agreements significantly reduce the level of discriminatory duties and taxes, quotas, regulations, and unfair subsidies that limit our exports. And they extend the market-opening disciplines of the GATT to new subject areas -- trade in services, agriculture, and intellectual property protection -- that are of vital importance to the American economy.

To ensure that the United States secured the full benefits of these far-reaching agreements, the United States insisted on a strong, binding and expeditious dispute settlement system for the new World Trade Organization. The WTO dispute settlement system has proven valuable not only in terms of achieving tangible gains for American companies and workers in specific cases, but also as a deterrent -- our trading partners know that this mechanism is ready and available to us if they are not fulfilling their obligations.

Since the WTO dispute settlement system began functioning in 1995, USTR, which represents the

United States in the WTO, has aggressively used WTO dispute settlement procedures to enforce our trading partners' compliance with their WTO obligations. To date, the United States has been by far the most active user of the WTO dispute settlement system, initiating more than 35 complaints against 22 different governments. These complaints cover a number of WTO agreements and affect a wide range of sectors of the U.S. economy. In 1997 alone, the United States brought 14 new complaints to the WTO -- covering such restrictive practices as Japan's unnecessary testing of American agricultural products such as apples, cherries, and nectarines, India's effective ban on the importation of U.S. consumer goods, and Korea's discriminatory taxation of American distilled spirits.

The U.S. has achieved a successful result in 18 cases that we have taken to the WTO -- with favorable panel decisions on nine of our complaints and favorable settlements on nine of our complaints prior to the issuance of the panel's decision. We at USTR are proud of the accomplishments of our litigators and negotiating staff in achieving these results, with the support of the other agencies in the trade policy team including the Departments of Agriculture, Commerce and State in Washington and our posts abroad. We have achieved important results for American companies and workers in a wide range of sectors -- from agriculture to sophisticated computer equipment to protection of creative works.

Building on our success, we will continue to apply an aggressive enforcement strategy to ensure that we extract the full value of the WTO agreements as well as our other trade agreements. In addition, since not all countries are members of the WTO, and some unfair practices are not covered by the WTO or other trade agreements with disputes settlement provisions, we will also continue to use the leverage of our trade laws to address such practices. We have achieved successful results on more than 75 occasions using U.S. trade laws. The WTO dispute settlement system is additive -- it does not detract from our existing approaches or remedies, including: bilateral, regional, and multilateral initiatives as well as proceedings under U.S. trade laws including antidumping duties, countervailing duties, and Section 301.

### **The WTO: going beyond the GATT**

Our participation in the WTO builds on the United States' long history of trade relations under the General Agreement on Tariffs and Trade. American negotiators designed and negotiated the GATT, to create a strong postwar trading system based on freeing markets and opening trade. And the GATT system has served as a catalyst for the greatest expansion of global wealth and opportunity the world has ever witnessed: a sixteenfold increase in global trade that has helped lead to a fourfold increase in real global output in the postwar period.

One of the reasons for GATT's success was the store of value it created -- the benefits flowing from tariff concessions and freer trade -- and the dispute settlement system that the members of GATT invented. This system involved examination of disputes by panels of neutral experts. These panels would draw up reports advising how GATT rules applied to the facts in the dispute, and the panels would then be officially adopted by the GATT. In serious cases, the members of the GATT could authorize a winning plaintiff to "turn off" GATT benefits selectively against a

member that had been found to violate its GATT obligations. The GATT dispute settlement system made GATT much more effective than most international treaty regimes in building the rule of law internationally.

But under the GATT, a losing party could block establishment of a panel, adoption of the panel report, or authorization of retaliation. And there could be deadlock over choosing panelists, and once established, panels could take years to complete their work. These problems led Congress to demand that our Uruguay Round negotiators make effective dispute settlement a high priority. Congress didn't want to enter into new agreements unless it was sure that those agreements would be enforceable. And because the WTO meant expansion of trade rules to cover new areas like services and intellectual property, the dispute settlement system had to be able to integrate those new areas in trade agreement enforcement.

The WTO Dispute Settlement Understanding successfully met each of these challenges.

- First, at each of the key three decision points, a guilty party can no longer block forward progress.
- Second, any deadlock over panelists can be broken.
- Third, the agreement provides time frames that ensure panels will finish their job on a timetable that is relevant to the world of business. WTO cases now move very rapidly compared to commercial litigation, and much more rapidly than international commercial arbitration.
- Fourth, to further ensure consistency in the system and enhance the rule of law, the WTO agreement also provides for an Appellate Body of seven members -- which includes a member from the United States, former Congressman James Bacchus of Orlando, Florida.
- And fifth, the WTO dispute settlement system integrates all of the WTO agreements. For instance, if a government measure discriminates against both our exports of goods and our intellectual property rights owners -- like Indonesia's National Car Program -- we can attack all the discrimination at once. And the leverage of "cross-retaliation" means that every country in the WTO must take all of its WTO obligations seriously. If a country is violating its WTO intellectual property rights obligations, for instance, and it has no export interest in intellectual property, we can and will be authorized to retaliate against the products or services it does export to the United States.

Madam Chairman, with the advice and support of Congress we have achieved a WTO dispute settlement system that provides certainty for American business and workers that if they have a problem, they will be able to get their dispute heard by a panel of impartial experts, the process can't be unilaterally derailed by blockage or foot-dragging by the defendant, and they will have a result, on a timetable that will be relevant in a business sense. In short, we have better enforcement for United States trade rights and more certainty that a deal is a deal.

Let me give you a few examples that illustrate how we have used WTO dispute settlement to benefit broad American interests.

- In a recent victory, a WTO panel agreed with us that the EU, Ireland and the United Kingdom have violated their tariff obligations by raising tariffs on computer networking equipment. California and New England companies make this equipment in the USA with American technology, and export it to the European market. They are the world's technology leaders and have over half of the \$5 billion European market. They came to us when European customs authorities began to reclassify their products as telecom equipment, nearly doubling the tariff rates. We won nine months after the panel was established and we believe we will prevail again now that the EU has appealed the panel decision. We will have the final result by early summer.
- We reached a successful settlement of our dispute concerning the Philippines' tariff rate quotas and licensing practices for U.S. pork and poultry meat exports. From now on, "use or lose" rules will prevent quota holders from sitting on their market access rights and blocking imports. USTR will work with U.S. exporters to monitor continuously Philippine implementation and ensure that this agreement provides the market access we bargained for in the Uruguay Round. Successful settlements like this one demonstrate one of the major benefits of WTO dispute settlement. If our trading partners know that the WTO rules provide strong enforcement, and that we are prepared to use those rules, we won't have to go all the way through the panel process to achieve the results that our exporters want.
- In 1996, we brought a WTO case against Japan's failure to protect intellectual property rights in sound recordings from 1946 through 1971. Before the case, U.S. industry estimated that Japanese firms were repackaging this material, from a rich and creative period in American popular music, into six million recordings a year of "greatest hits" collections and outright copies, with no compensation paid to the American artists. Japan agreed to change its law, and enacted legislation months later providing full protection.

Our strategic use of the WTO dispute settlement process in the area of intellectual property rights provides a good example of how the system has fostered more widespread compliance. We systematically monitor implementation of U.S. rights under the WTO and bilateral intellectual property rights agreements. In a series of WTO cases and trade law actions, we have sent developing countries the message that we are serious about intellectual property rights obligations and that these obligations must be implemented. In cases that we brought against Portugal, Turkey, Pakistan and Japan, the responding countries recognized that their laws violated the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, or "TRIPS Agreement," shortly after the United States initiated formal WTO consultations. Each of these countries' quick commitments to change their laws in the context of WTO proceedings is highly significant, and all four countries have now amended their laws to implement the promised changes. Such examples help hasten compliance by countries other than those directly targeted in these cases. In fact, by formally challenging both India and Pakistan for failure to establish a

“mailbox” system for filing applications for pharmaceutical and agricultural chemical patents, we succeeded in getting a number of other developing countries to implement a mailbox system.

In closing, I’d like to emphasize that this Administration has not hesitated to bring difficult cases to ensure that we reap the full advantage of the new trade benefits we fought so hard to achieve under the WTO agreements. Indeed, as noted earlier, we have invoked the WTO’s new dispute settlement system far more than any other government, accounting for well over a third of all proceedings initiated since the WTO was established. Most importantly, however, with 18 successful challenges to date, the United States has also reaped more benefits from WTO dispute settlement than any other country.